

## Use of Public Sidewalks and Courtyards

The City of Anderson appreciates the investment you are making in our Downtown. Your business along with other public and private investment brings a sense of vibrancy to the energy and excitement we are already seeing.

We want to help the success of your business by granting the use of our public spaces relative to non-permanent encroachments. The permit process affords all businesses an equal opportunity. In an effort to help you, we need your help by completing the encroachment application. The application and information on the Encroachment Ordinance can be found below. Please note that the City will not assess any encroachment fees for approved permits now through December 31, 2009. This decision was made because of the current state of our economy.

City Council established the encroachment regulations to promote the general economic development and provide a public atmosphere that further fosters the elements of the Downtown Master Plan. Although it seems like a long time ago, the public process of developing and adopting a master plan resulted in a reduction of four lanes of traffic to two lanes and created wider sidewalks to encourage a pedestrian friendly environment. We're all seeing the fruits of that vision now.

The newly completed streetscape improvements is poised to accentuate a new look for our downtown. The City of Anderson has a very real commitment to beautifying our urban environment and encouraging a sense of citizen pride and a good public image. We hope you, too, will review the encroachment request process in its full scope as a positive effort for downtown, beneficial to all.



401 South Main Street  
Anderson, SC 29624  
231-2200

## Encroachment Permit Application

(Revised 2-8-2010)

Applicant's Name: \_\_\_\_\_

Applicant's Business Name and Location: \_\_\_\_\_

Applicant's Business Phone Number: \_\_\_\_\_

Name, Address, Phone Number of Business Owner (if different from applicant):  
\_\_\_\_\_

Name, Address, Email Address and Phone Number of Contact Person Regarding  
Encroachment (once application has been approved): \_\_\_\_\_

Specific Description of Requested Encroachment/s: \_\_\_\_\_

Other Required Documentation (must be attached to application):

- Copy of current business license
- Copy of current liability insurance
- Copy of SCDHEC permit (if applicable)
- Annual fee (made payable to the City of Anderson)
- Copy of scaled diagram showing the location of proposed encroachments, the lay-out, and dimensions of the existing public area and adjacent private property
- Copies of other required licenses used in the conduct of applicant's business
- Photographs, drawings, or manufacturer's brochures describing the appearance of proposed encroachments

I HEREBY CERTIFY THAT THE INFORMATION GIVEN HEREIN IS CORRECT  
AND TRUE \_\_\_\_\_(Applicant)

City Validation: All required documentation provided \_\_\_\_\_ Yes \_\_\_\_\_ No  
Encroachment Permit \_\_\_\_\_ Approved \_\_\_\_\_ Denied

Special Conditions of Permit: \_\_\_\_\_

Validated by: \_\_\_\_\_ Date: \_\_\_\_\_

## **ENCROACHMENT PERMITS**

In accordance with City Ordinance #99-13

### **Purpose**

The provisions of this article shall apply to the establishment, operation and maintenance of encroachments within the Central Business District on public rights-of-way, public areas, and sidewalks. The purpose of this article is to promote the general economic development and atmosphere of the district for the benefit of the general public. No rights of individuals or individual businesses are created herein. The city shall have broad discretion to grant, modify, or revoke permits pursuant to this article in the interests of improving the public health, safety, and welfare.

### **Definitions**

For the purpose of this article, the following words shall have the meanings respectively ascribed in this section:

*Design requirements* mean the standards adopted with this article that guide design and materials in encroachment areas.

*Encroachment* means stands, tables, umbrellas, chairs, displays, signs, banners, flags, objects related to the business, or other items for sale on the public right-of-way, sidewalk or common area on public property.

*Outdoor cafe* means the placing, locating, or permitting of the placing or locating of chairs and tables on the right-of-way, such as sidewalks, adjacent to a business licensed to operate as an eating establishment.

*Permittee* means the recipient of an encroachment permit under the terms and provisions of this article.

*Sidewalk* means that area of public right-of-way between the curb lines or the lateral lines of a roadway and the adjacent property lines reserved for pedestrian traffic, not including street crossings.

### **Permit Required**

(a) It shall be unlawful for any person to create, establish, operate, maintain or otherwise be engaged in the business of operating an encroachment or place any items upon the sidewalks or public property in the zoned Central Business District in the city unless he shall hold a current valid permit issued under the terms of this article.

(b) Permits shall be issued only to validly licensed businesses that wish to provide encroachments related to their business on the public property adjacent to their businesses for use by the general public.

### **Permit Application**

(a) Application for a permit shall be made at the designated city department in a form deemed appropriate by the city. Such application shall include, but not be limited to, the following information:

- (1) Name, home and business address, and telephone number of the applicant, and the name and address of the owner, if other than the applicant of the business;
- (2) Name, home address and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's encroachment;
- (3) A copy of a valid business license to operate a business establishment adjacent to the public property as the subject of the application;

(4) Proof of current liability insurance, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the encroachment permit. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advanced written notice to the city. The policy shall be a minimum of \$300,000.00 or higher, if deemed necessary by the city;

(5) A sketch to scale of the proposed location of encroachment/s showing the lay-out and dimensions of the existing public area and adjacent private property;

(6) Proof of any licenses required by other agencies involving the operation of the subject business in the public right-of-way; and

(7) Photographs, drawings, or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas, or other encroachments related to the business.

(b) After the filing of a completed encroachment permit application, the applicant shall be notified by the city of the decision on the issuance or denial of the permit. Upon issuance of the permit, an annual fee shall be due and payable:

(1) Encroachments less than 500 square feet: \$150.00.

(2) Encroachments greater than 500 square feet: \$250.00.

This fee is in addition to the business license required for operation within the city. Only new permits shall be prorated on a quarterly basis. No fees shall be charged for encroachments solely for the purpose of beautification, but all other provisions of this section shall apply.

(c) Application for a permit shall be made within 48 hours of written notice for failure to obtain a permit. Where the same owner, occupant, or person responsible has been given notice for the same violation at the same location within the previous 180 days, such requirements of written notice may be waived and legal proceedings commenced immediately.

#### **Prohibited Conduct**

(a) No merchant, vendor, business or property owner shall:

(1) Place any items for sale or other equipment, tables, or chairs on any portion of the public property other than directly in front of or adjacent to his existing place of business.

(2) Block or restrict the passageway to less than six feet in width or block the ingress/egress to any building. In areas of congested pedestrian activity, the city is authorized to require a wider pedestrian path, as circumstances dictate. Also, no items shall be placed so as to block any driveway, crosswalk, bus stop, or counter service window.

(3) Sublicense the encroachment area separately to non-occupants of the adjacent and subject business premises.

(4) Place objects around the perimeter of an area occupied by tables and chairs which would have the effect of forming a physical or visual barrier.

(5) Use tables, chairs, umbrellas and any other objects of such quality, design, materials, and workmanship which are not authorized by the city according to the permit and regulations herein described.

(6) Use umbrellas or other decorative material which is not fire-retardant, pressure-treated, or manufactured of fire-resistive material.

(7) Fail to secure permission of the landlord where a building has multiple occupants/tenants.

(8) Use or display without the insurance coverage specified.

(9) Sound or permit the sounding of any device on the public property which produces a loud noise or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device in violation of the noise ordinance unless authorized by the city to do so.

(10) Fail to pick up, remove and dispose of all trash or refuse left by the business on the public right-of-way.

- (11) Store, park, or leave any stand or items of merchandise overnight on any street or sidewalk except for tables and chairs which may be kept in the permitted area at the permittee's risk.
- (12) Store, park, or leave any vehicle, truck, or trailer within the encroachment area.
- (b) The encroachment permit is a temporary license which may be denied, suspended or revoked for any conduct which is contrary to the provisions of this section or for conduct of the business in such a manner as to create a public nuisance, or constitute a danger to the operator's or public's health, safety, or welfare. No property right is created by this article and the decision of the city shall be final.

#### **Form and Conditions of Permit**

The permit shall be issued on a form deemed suitable by the administrator. In addition to naming the permittee and any other information deemed appropriate by the administrator, the permit shall contain the following conditions:

- (a) Each permit shall be effective for one year, from January 1 to December 31 subject to annual renewal, unless revoked or suspended prior to expiration. When a permit is revoked, the prorated fee for any full quarter year remaining shall be refunded. No fees will be refunded for periods of suspension.
- (b) The permit issued shall be personal to the permittee only and shall not be transferable in any manner.
- (c) The permit may be suspended by the city when necessary to clear the public property for public safety when a "community or special event" has been authorized by a permit issued by the city.
- (d) The city may require the temporary removal of items within the encroachment area when street, sidewalk, common areas or utility repairs necessitate such action.
- (e) The permit shall be specifically limited to the area shown on the "exhibit" attached to and made part of the permit.
- (f) The encroachment area covered by the permit shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day.
- (g) No advertising, except for the posting of prices, on any stand or item except to identify the name of the product.
- (h) No tables and chairs nor any other parts of the business shall be attached, chained, or in any manner affixed to any tree, post, sign, or other fixtures, curb or sidewalk within or near the permitted area. No additional outdoor seating authorized herein shall be used for calculating seating requirements pertaining to the primary business establishment; or, be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any city ordinance or state law.
- (i) The issuance of a permit does not grant or infer vested rights for use of the area by the permittee. The city retains the right to deny the issuance of a permit or the renewal of a permit for any reason.
- (j) Tables, chairs, umbrellas, and any other objects provided shall be maintained with a clean and attractive appearance and shall be kept safe and in good repair at all times.
- (k) The city retains the right to suspend the privilege of using glass containers within the encroachment area during major festivals and events and when streets are closed. The use of glass containers will be revoked if an incident jeopardizes the health, safety and welfare of customers or the general public. Any violation of state or local laws will also result in a revocation of this privilege. Repeated offenses may result in revocation or denial of the encroachment permit.
- (l) The city may use discretion in allowing special exceptions where the general welfare, safety, and health of the public is not jeopardized.

**Denial, Revocation, or Suspension of Permit; Removal and Storage Fees; Emergencies**

(a) The city or designee may deny, revoke, or suspend a permit at any time for any business authorized in the city if it is found that:

- (1) Any necessary business or health permit has been suspended, revoked, or canceled.
- (2) The permittee does not have insurance in force which is correct and effective in the minimum amount.
- (3) Changing conditions of pedestrian or vehicular traffic cause congestion necessitating removal of the encroachment. Such decision shall be based upon findings of the city that the minimum six-foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety, or general welfare of pedestrians or vehicular traffic.
- (4) The permittee has failed to correct violations of this article or conditions of his permit upon receipt of the administrator's notice of same delivered in writing to the permittee.
- (5) The permittee has failed to take positive actions to prohibit violations from reoccurring.
- (6) The permittee has failed to make modifications upon receipt of the city's notice of same delivered in writing to the permittee.
- (7) Tables, chairs and other encroachments of said business may be removed by the city, and a reasonable fee charged for labor, transportation, and storage, should the permittee fail to remove said items within 36 hours of receipt of the city's final notice to do so for any reason provided for under this article. If the action is taken based on subsection (a)(2) or (3) above, the action shall become effective upon the receipt of such notice and the permittee shall have four hours to remove said items.

(b) Upon denial or revocation, the city shall give notice of such action to the applicant or the permittee in writing stating the action which has been taken and the reason thereof. The action shall be effective upon giving such notice to permittee.

(c) Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$500.00 or imprisonment for a period not to exceed 30 days, or by both. Each day any violation of this section shall continue, shall constitute a separate offense.